



Virginia
Regulatory
Town Hall

Periodic Review and Retention of
Existing Regulations
Agency Background Document

Agency Name:	Department of Agriculture and Consumer Services
VAC Chapter Number:	2 VAC 5-540
Regulation Title:	Rules and Regulations Pertaining to Carbonated and Still Water Bottling Plants and Beverages
Action Title:	Retain
Date:	September 5, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

This regulation establishes specific requirements for the sanitary construction, maintenance and operation of carbonated and still-water bottling plants. It also establishes labeling requirements for artificially sweetened beverages and for the placement of labels.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or

discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

The legal authority for this regulation is contained in §§ 3.1-394 and 3.1-398 of the Code of Virginia (1950), as amended. Section 3.1-394 authorizes the Board of Agriculture and Consumer Services to promulgate regulations to establish labeling requirements, a reasonable definition and standard of identity, and a reasonable standard of quality and fill of container, or tolerances or limits of variability for any food or class of food. Section 3.1-398 authorizes the Board to promulgate regulations for the efficient enforcement of the Virginia Food Laws. The authority to promulgate this regulation is discretionary.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

The agency received no public comment on this regulation as the result of the Notice of Periodic Review published in *The Virginia Register of Regulations* on June 18, 2001, to provide notice of opportunity to comment on this regulation pursuant to Executive Order Number Twenty-five (98). No informal advisory group was formed for the purposes of assisting in the periodic review.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The specific and measurable goal of this regulation is to protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.

The regulation is essential to protect the health and welfare of citizens by ensuring that bottling plants which manufacture beverages made with water, whether carbonated or still, are properly constructed and maintained, operated in accordance with sound sanitary practices, and produce a product that is free from yeast, mold and other contaminants.

This regulation is clearly written and easily understood by the individuals and entities affected.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

The agency has considered and rejected repealing this regulation. The absence of this regulation would allow Virginia's citizens to be exposed to bottled water products that could be adulterated and unwholesome.

Recommendation

Please state that the agency is recommending that the regulation should stay in effect without change.

The agency recommends that this regulation be retained in its present form.

Family Impact Statement

Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.

Unless otherwise discussed in this report, this regulation has no impact upon families.